

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

OCT - 9 2018

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

Eastern DIVISION

Patrick Johnson

RECEIVED

OCT - 9 2018

BY MAIL

4:18CV01737 HEA

(To be assigned by the Clerk of the Court)

-V-

Plaintiff Request Trial By Jury

yes NO

Steve Lorkins, Warden, E.R.D.C.C.

Stanley Paine, Asst Warden, E.R.D.C.C.

Chris Rosko, Medical Director, E.R.D.C.C.

Advanced Correctional Healthcare, Inc, E.R.D.C.C.

Anna Irvin, Doctor, E.R.D.C.C.

Ann ElTimsa, Nurse, E.R.D.C.C.

ms. LIDDEL, Mental Health Counselor, E.R.D.C.C.

ms. Aubouston, Nurse, E.R.D.C.C.

Unknown Correctional Officers, E.R.D.C.C.

Unknown Nurses, E.R.D.C.C.

①

I. The Parties to this Complaint

A. The Plaintiff

Name: Patrick Johnson
Other Names you have used: N/A
Prisoner Registration Number: 1137838

Current Institution: E.R.D.C.C. 2727 Highway K, Bonne Terre, MO 63628

Indicate your Prisoner Status: Convicted and sentenced state prisoner

B. The Defendant(s)

Defendant 1

Name: Steve Larkins
Job or title: Warden
Badge or shield number: N/A
Employer: E.R.D.C.C.

Address: 2727 Highway K Bonne Terre, MO 63628

Defendant 2

Name: Stanley Paine
Job or title: Asst. Warden
Badge or shield number: N/A
Employer: E.R.D.C.C.

Address: 2727 Highway K, Bonne Terre, MO 63628

Defendant 3

Name: Chris Rosko
Job or title: Medical Director
Badge or shield number: N/A
Employer: E.R.D.C.C.

Address: 2727 Highway K, Bonne Terre, MO 63628

Defendant 4

Name: Advanced Correctional Healthcare Inc.
Job or title: Healthcare
Badge or shield number: N/A
Employer: E.R.D.C.C.
Address: 2727 Highway K, Bonne Terre, MO 63628

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	Defendant 5
Name:	Anna Irving
Job or title:	Doctor
Badge or shield number:	N/A
Employer:	E.R.D.C.C.
Address:	2727 Highway K, Bonne Terre, MO 63628
	Defendant 6
Name:	Ann Eltimsalz
Job or title:	Nurse
Badge or shield number:	N/A
Employer:	E.R.D.C.C.
Address:	2727 Highway K, Bonne Terre, MO 63628
	Defendant 7
Name:	MS. Liddel
Job or title:	Mental Health Counselor
Badge or shield number:	N/A
Employer:	E.R.D.C.C.
Address:	2727 Highway K, Bonne Terre, MO 63628
	Defendant 8
Name:	MS. Acosta
Job or title:	Nurse
Badge or shield number:	N/A
Employer:	E.R.D.C.C.
Address:	2727 Highway K, Bonne Terre, MO 63628
	Defendant 9
Name:	Unknown Correctional Officers
Job or title:	CO
Badge or shield number:	N/A
Employer:	E.R.D.C.C.
Address:	2727 Highway K, Bonne Terre, MO 63628
	Defendant 10
Name:	Unknown Nurses
Job or title:	Nurse
Badge or shield number:	N/A
Employer:	E.R.D.C.C.

(3)

Address:

2727 Highway K, Bonne Terre, MO 63628

II. Statement of Claim

I. Jurisdiction And Venue

1. This is a civil action, authorized by 42 USC 1983, to redress the deprivation of rights, secured by the US Constitution, laws, and treaties of the United States. This court has jurisdiction pursuant to 28 USC 1331 and 1333 (a)(1)-(3). This court is appropriate venue under 28 USC 1331(b)(1) because it is where the events giving rise to this cause of action occurred. Plaintiff seeks declaratory relief pursuant to 28 USC 2201 and 2202. Plaintiff seeks injunctive relief pursuant to 28 USC 2283, 2284, and Rule 65 of the Federal Rules of Civil Procedure. Plaintiff seeks damages for civil conspiracy under Missouri law and 42 USC 1983. Plaintiff seeks damages for breach of duty/negligence under Missouri state law. Plaintiff seeks damages for Intentional Infliction of Emotional Distress under Missouri state law.

II. Parties

2. Plaintiff, Patrick Johnson, is a State inmate currently detained at the E.R.D.C.C. PRISON. Address: 2727 Highway K, Bonne Terre, MO 63628

3. Defendant, Steve Larkins, is the warden of E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628

4. Defendant, Stanley Paine, is the Asst. warden of E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628

5. Chris Rosko, is the Medical Director of E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628

6. Defendant, Advanced Correctional Health Care Inc, is the Medical staff employer at E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628

7. Anna Irving, is the doctor at E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628

8. Ann Eltimsalz, is the nurse at E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628

9. Defendant, Ms. Liddel, is the mental health counselor at E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628

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10. Defendant, MS. Aubouston, is a nurse at E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628
11. Defendant, Unknown Correctional Officers, are CO's at E.R.D.C.C. Address: Highway K, Bonne Terre, MO 63628
12. Defendant, Unknown Nurses, are part of the medical Staff at E.R.D.C.C. Address: 2727 Highway K, Bonne Terre, MO 63628
13. AT ALL TIMES MENTIONED HERE IN, EACH DEFENDANT ACTED UNDER THE COLOR OF STATE LAW EACH DEFENDANT IS BEING SUED IN HIS/HER INDIVIDUAL CAPACITY FOR MONETARY RELIEF, AND IN HIS/HER OFFICIAL CAPACITY FOR INJUNCTIVE RELIEF.

III. A. STATEMENT OF CLAIM

14. Plaintiff, Patrick Johnson, IS a inmate at E.R.D.C.C. The events that took place in this claim happened at E.R.D.C.C. ON July 11th, 2018 to present day in October.
15. On July 11th, 2018. I was sentenced to Department of Corrections for I State crime, and was sent to E.R.D.C.C. Prison

III. B. The Booking Process

16. Like most prison systems E.R.D.C.C. has a booking process that starts with a ~~strip~~ strip search. Once you've been stripped search you wrap a towel around you and go and take a ice shower and get your clothes and shoes. Then you watch a prea video. Next you fill out your emergency contact. Then you get your I.D. and fingerprints. Next is a eye exam. Then you get your property. After you get your property you do a Medical eval. at which point you tell them any health problems you have and any meds you take. I told the nurse my personal Doctor. Dr. Bello Aadejoh from Chesterfield, MO. Has me on Lithium, Bupropion, Klonopin, and Seroquel, for my mental health, bipolar, anxiety disorder, PTSS, and Major depression. The nurse said I COULD NOT have my meds until approved. Which I then refuse to move on to the next booking process because my last stay at E.R.D.C.C. back in 2013 it took the

(5)

Doctor almost THREE WEEKS to give me my meds, at which point caused my mental health to get worse, and cause me serious distress physically and mentally. At which point the nurse called my doctor and get my meds approved, but then told me that some of my meds E.R.D.C.C. doesn't allow inmates to have that I'd have to fill out an M.S.R. and see the doctor to get a different type of meds. for my health problems. I asked how long would I have to go without my meds. she said "NO LONGER THAN THREE DAYS" so I agreed and move to the next step in the booking process which is Mental health Screening, which from my stay back in 2013 my records told them "Plus from my Doctor they called" I suffer from mental health problems which the nurse doing my Mental health Screening again said I was not allowed some of these meds. here that the Doctor at E.R.D.C.C. would have to give me a different type of meds. to treat my mental health problems. I then asked AGAIN "How long will it take to get my meds" and AGAIN they said "NO MORE THAN THREE DAYS" At which point the nurse gave me some mental health packets to look over to try and give some relief while I wait to get my meds. The next process is a pre interview, then its bed blocker.

III.C. The M.S.R. Process

17. Like most prison systems E.R.D.C.C. has a way to get medical or mental health help. The M.S.R process starts with picking up an M.S.R form which is located outside the chow hall "If there's any to pick up" which you must then take back to your housing unit to fill out, and wait till next meal time to return it to the M.S.R box which is also located outside the chow hall. Once it's turned in depending on which CO's are working it can take days or weeks to empty the M.S.R box which leaves inmates who need serious medical or mental health problems at ~~risk~~ risk to cause more health or worsen health problems, or to think there health problems arent serious enough to receive there care leaving them deppress. Once they do turn in the M.S.R. they received from inmates it takes EVEN LONGER to see a doctor or nurse. At which point there disrespectful to inmates, refuse inmates to the care they seek if it's not in there eyes serious enough to them, or they lie saying there's nothing that

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Can be done just to get them out of there work station, or office faster. Now when they final decid to see me after a week and a half after I was told it would only be three days. They told me that there was nothing they could do. That I'M Not allowed my meds and there was nothing ~~they~~ they could do to help me. Which was not what I was told when I arrived at E.R.D.C.C. So I kept filling out M.S.R about not just my meds, but how my mental health was getting worse and worse they told me to stop filling out M.S.R, and if I continued to fill out M.S.R that I'd go to the hole for a months.

IV. Legal Claims.

18. Plaintiff brings a "Monell" claim against Steve Larkins, Stanley Paine, Chris Rosko, Advanced Correctional Healthcare, Anna Irving, Ann Ettimazolz, Ms. Liddel, Ms. Aubouston, Unknown Correctional Officers, and Unknown Nurses, for having a "custom" of denying inmates mental & medical health needs. As Plaintiff stated in the complaint, Plaintiff realleges and reincorporates by reference of Paragraphs 14-17. A Plaintiff Patrick Johnson raising a Municipal liability claim under 42 USC 1983 must demonstrate that the alleged federal violation occurred because of a Municipal policy or custom, *Monell vs. Dept of Social Services of the city of New York*, 436 U.S. 658, 694, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978). Defendants knowingly violated Plaintiff's rights under the fourteenth Amendment's Due process clause, as a State convicted inmate pursuant to a custom of E.R.D.C.C. PRISON SYSTEM. Plaintiff seeks damages on this claim. Plaintiff contends that defendants, all of them, by their actions and their inactions, intentionally inflicted emotional distress upon Plaintiff, and Plaintiff seeks damages against all of the defendants.

V. Requested Relief

19. Wherefore Plaintiff respectfully requests this court to GRANT him the following relief to which he may be entitled:
(A) A declaration that the acts/comissions of the defendants violated the US Constitution, Laws, and treaties of the United States;

(B) A preliminary injunction ENJUNCTION defendants from enacting all of the unconstitutional policies/customs mentioned in this complaint, and requiring that the defendants serve, *inter alia*, adequate and E.R.P.C.C.

(C) Nominal damages - \$100.00

(D) Compensatory damages - \$5,000,000.00

(E) Punitive damages - \$5,000,000.00

(F) Damages on the State law claims - \$5,000,000.00

(G) Damages for pain and suffering - \$5,000,000.00

(H) Damages for emotional distress - \$5,000,000.00

(I) A jury trial on all issues triable by jury;

(J) All other appropriate equitable and monetary relief =

1ST DATE:

Additional Information

Upon arrival on 7-11-18 I refused to leave intake until DOC medical staff verified with my transferring county (Jefferson County) that I was on the following physical medications that were prescribed to me from Dr Bell Adejoh, Global Psychiatric Associates Inc, of Chesterfield Missouri (Prescriber NPI # 1629023262)

1) Lithium 2) Bupropion 3) Klonopin 4) Serquel
This professional psychiatric doctor has a complete copy of my mental health diagnosis and has been treating me since my release from DOC in November of 2015.

My first visit to Mental Health, Dr Anna Irving took me off of Serquel completely without replacing it with Thorazine like she did with me in 2013. She stepped me down from Serquel to Thorazine to Trazadone. Mental Health refuse to treat my mental condition with the correct medications. Because of this, it has continually caused me to be emotional distressed, mentally unstable and is a form of cruel and unusual punishment.

Since I felt Dr Anna Irving is nothing but a quack of a doctor, I see the nurse practitioner Ann Eltimsaltz. Over the past months, she (Ms Eltimsaltz) will not listen to me, the patient, on what medications work best for my mental health condition. My last visit in September she increased my Lamictal and Busspar

additional) Information (2)
after I begged and pleaded for them to be changed. The Lamictal is for anticonvulsant as well seizure disorders but also is used for bipolar and a mood stabilizer. It was causing me to have uncontrollable jerks or twitches first thing in the morning. These two medication also caused me to have severe chest pain, which I "self declared" to medical multiple times until which time, I and not the doctor, figured out these medications were the source of the issues. Also while at this meeting, I stated that if these med changes (increased dose) caused me issues that I would drop a HSR (Health Service Request).

Ms. Ann Eltimsalz told me not to file any request for medical help if there were issues with the med changes. I also asked her, Ms. Eltimsalz, to please put me back on trazadone for my depression and insomnia. I was told no, we don't treat sleeping issues at ERDCC. Since being forced off my Sequel, lack of sleep has been a major issue for me.

In 2013 Dr. Irving went from Seroquel to Thorazine to trazadone. This time it was not the right med replacement to fit Doc's medication criteria for my mental condition. Once I did file the HSR's Ms. Duboshon (nurse) & Ms. Liddle (counselor) seen me for these medical requests.

additional Information (3)

Both Ms Auboshan and Ms Liddel complained that I was told not to file these requests by Ann Eltimsalz even though I was in severe emotional and psychological distress. I begged and pleaded with them to help me get my meds adjusted. On 9-28-18 I seen Ms Liddel for my monthly meeting. During this meeting she complained about my two HSR's that I filed for mental health help. again I stated my issues with the current wrong medications at the wrong times. at some point I broke down crying in her office begging for help. Her (Ms Liddel's) response was that I could not see the Doctor/Nurse for 4-6 weeks for any new med changes. She also made the statement that the help I need for my mental health would take time, training, and attention that this camp can not offer. I was told by her (Ms Liddel) to use coping skills, that I don't have, in replacement of the medications I so desperately need in order to live/cope with my PROVEN mental health diagnosis. Ms Liddel made a comment about being put in the hole because of my emotional break. I was told by both Ms Auboshan and Ms Liddel denied Doctor/Nurse for 4-6 weeks.

Additional Information

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so I was sent back to my cell with no hope of any help for my medical issues. The prolonged isolation of being locked in a cell 22 hours a day for 4-6 months, if not longer, can have a mental toll on almost all people who come through ERDCC.

There are other consistant issues at ERDCC that affect a persons mental and emotional well being. These Correctional Officers forget we are US citizens who have rights as human beings. I feel that these rights are violated on a daily basis, significant changes need to be made to ensure fair treatment to all. This is done specifically on the diagnostics side.

~~Point~~ First, we are refused access to a spiritual advisor and the ability to attend religious servies. In Fulton Diagnostics you can go to the law library and attend any religious service of your choice. I was told that I can't see a priest until transferred out of diagnostics.

The lack of staff in custody causes them, Correctional Officers, to work 60-80 hours a week. Some staff members take out these mandatory hours out on us as offenders. Officer RUSSEL in HU-9 (Day Shift) misuses the intercom all day long yelling at offenders, belittling them as human beings by his remarks, also uses corporal punishment on the whole wings.

additional Information

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Our recreational period is suppose to start at 9am daily. Officer Russel starts the 9-10am recreation hour late every day. Housing Unit #7 starts recreation at 8am everyday with only one person in the bubble. That alone is the reason we are given for the delay, if not total loss of that recreation hour. When staff is available, the delay still happens. Each 9 cell rotation has only one hour out in the morning/afternoon for a shower, phone call, and recreation with other offenders. This is another tactic used against us.

The misuse of our intercom system. This occurs all day everyday and consist of the Correctional Officers holding down the keys on a home phone receiver, making a loud pulsing noise that is intensified by the intercom. Officer Jones (HU-9 Evening shift) was wrote up by another employee (CO) in September for doing this which scared her while doing a security check in the wing. Other tactics are used with the intercom such as making a loud, high pitched noise. It sounds scratching a chalkboard, this harasses all the offenders in the wing. There is suppose a correctional officer at the desk in each wing for direct supervision. Lack of staff prevents this so we are forced to have our "all time dictation" in the day.

additional Information

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at 4:30 am every morning offenders doors are popped for med pass. The unknown older Correctional Officer woman who work midnights in Hu-9 pops your door lock, but then repeatedly clicks the locking mechanism. This is a form of cruel and unusual punishment that disturbs multiple people, not just the cell being opened for med pass. There has got to be a more humane way this can be done. About 10 minutes after this a CO does a security check to make sure all needed offenders are awake. It makes no sense why this tactic is used. Another such demential treatment by staff is done by CO Thomas who works midnight shift at medical. When he does the 5am morning med pass, CO Thomas yells from medical at the offenders who are walking both to and from medical about how to walk on the sidewalk. Once you reach medical, he points to a yellow line painted on the sidewalk/outsidemedical no matter the tempature, we only get coats issued in the fall/winter on the diagnostic side. We are forced to line up outside of medical, when there is enough room for all of us inside medical waiting room. This same CO Thomas screams at offenders in the chow hall like a drill sergeant. He got right behind me while I was filling my milk screaming about getting more than

additional Information

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one cup. The cups we get are about 6~~0~~ ounces, only get two at breakfast for milk and coffee. all other meals only get the one small cup per adult offender. I felt intimidated and uncomfortable with him (CO Thomas) literally breathing down my neck. I'm not allowed to get that close to any staff member without going to the hole, why is he allowed to do this such tactic to offenders? CO Thomas makes verbal threats all the time about taking offenders to the hole for anything he deems unacceptable. Most of the things he yells at offenders for are not in the DOC Rule Book, wing rules or institutional rules. While he, CO Thomas, was taking an offender to the hole from HU-9 we (offenders) are suppose to get off the sidewalk for security reasons. He yelled at me for going through the grass saying I was going to the hole next for doing what I was told to do while any other CO/staff member took another offender in handcuffs to the hole. These consistant daily threats, and disrespectful treatment continues to go on without reprimand because CO Thomas has been here 10+ years from the stars on his uniform. The lack of staff forces us offenders to deal with such inhumane treatment on a daily basis. The lack of adiquit staff goes even

additional Information

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to the other parts of the prison system here at ERDCC, Classification and assignment only sees offenders until lunch time. They process about 20 offenders a day, if they are all there and working. Due to them being under staffed, offenders are doing 4-6 months, if not longer, in diagnostics which is prolonged lockdowns in their cells instead of the average of 90 days.

For some reason, the Records Department has not been processing offenders through here consistently. The Records department wont respond to "kites", an in house note to communicate, so we offenders get no answers to what the problem is with our excessive stays in diagnostics.

The diagnostic side do not treat/spray the mats we sleep on for scabies, MRSA or staph infections like the permanent resident side does. The lien (sheet, blanket, and pillow case) is not exchanged or regularly cleaned. Our only laundry day goes out overnight, so only option to have it (lien) cleaned would be to not have any for a night.

We are not given adequate time to eat in the chow hall. Doc policy says we get 15 minutes to eat. They make people leave as rows fill up. So we are herded in like cattle, forced to choke our food down, then ran out as fast as possible. This has

additional Information

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gone on for years and needs to change.

The last issue is with time credit calculation. I was given credit for 1,344 days (44 months 24 days) case number 13 JE-CR 02518-01. I came to prison 6-28-13 (with 30 days county time) till 11-2-15 which is 28 months 4 days. The Judge executed my 7 year sentence but gave me credit for time on probation 11-1-15 to 11-27-17 (24 months 26 days) I was in jail from 5-31-18 to 7-11-18 (1 month 12 days) and in DOC 7-11-18 to present 3 months). That is a total of 57 months in on my 7 year sentence.

The Goings Law gives me all the time served in jail/prison for my current incarceration. While the Courts reduced my time to serve by 2 years 26 days for the good time on probation. DOC is only giving me 44 months 24 days when I should have 57 months in on this 7 year sentence. I have a ITR (Grievance) filed on this matter. I would like to be compensated for every extra day I unlawfully spend incarcerated. I'm requesting a judgement from this Honorable Court so DOC stops screwing offenders who don't know how to fight back the legal way. Also for us to be treated as people, not like animals. Thank you.

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III. Injuries

If you sustained injuries related to the events alleged above, describe the injuries, and treatment.



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IV. Relief

State briefly and precisely what you are wanting the court to do.
(see Complaint)

V. Exhaustion of Administrative Remedies/Administrative Procedures

The Prison Litigation Reform Act, 42 U.S.C. § 1997e(c), requires that "no action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, until such administrative remedies as are available are exhausted."

A. Did your claim(s) arise while you were confined in jail, prison, or other correctional facility?

Yes No

If yes, name the jail or prison facility where you were when the events stated happened.

E.R.D.C.C. in Bonne Terre, MO 63628

B. Does the jail, prison, or correctional facility have a grievance process

Yes No

C. If yes, Does the grievance process cover some or all the claims?

Yes No

If yes which, claim(s)

All of them

D. Did you file a grievance concerning the facts to this claim?

Yes No

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If no, did you file a grievance about the events described in this complaint at any other jail, or prison

Yes NO

E. If you did not file a grievance

1. If there was any reason why you didn't file one plus state them.
The defendants refuse to let me.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their responds.
I informed all of the defendants that what they were doing was wrong.

F. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A.

VI. ~~Previous~~ Previous Lawsuits

The three strike rule bars a prisoner from being civil actions or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted. Unless under 28 U.S.C. § 1913(e)(1)

A. Have you ever had a case dismissed on the bases of the three strike rule?

Yes NO

11
Have you filed other lawsuits in State or federal court dealing with the same facts involved in this action?
 Yes No

VII. Certification and Closing

Under Federal rule of civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to ~~above~~ my address where case papers may be served.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 4th day of October, 2018

Signature of Plaintiff Patrick Johnson 1137838XX